

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE: INSULIN PRICING
LITIGATION**

**Case No. 2:23-md-3080 (BRM)(RLS)
MDL No. 3080**

**JUDGE BRIAN R. MARTINOTTI
JUDGE RUKHSANAH L. SINGH**

**THIS DOCUMENT RELATES TO: 2:25-cv-00503,
2:25-cv-00515,
2:25-cv-00519,
2:25-cv-00521,
2:25-cv-00525,
2:25-cv-00526
(SELF-FUNDED PAYERS TRACK)**

MOTION FOR ENTRY OF ORDER TO SHOW CAUSE

TO THE HONORABLE COURT:

NOW COME Defendants Eli Lilly And Company; Novo Nordisk Inc.; Sanofi-Aventis U.S. LLC; CVS Pharmacy, Inc.; Caremark Rx, LLC; Caremark LLC; CaremarkPCS Health, LLC; Express Scripts, Inc.; Express Scripts Administrators, LLC; Medco Health Solutions, Inc.; ESI Mail Pharmacy Service, Inc.; Express Scripts Pharmacy, Inc.; and OptumRx, Inc. (collectively “Defendants”), through their undersigned attorneys, and respectfully submit this Motion for Entry of an Order to Show Cause pursuant to Case Management Order No. 14 (“CMO No. 14”) ¶ 5(c)(i) (Dkt. 315). A proposed Order is attached as **Exhibit A**.

This Court entered CMO No. 14 on October 16, 2024—more than seven months ago. In direct violation of that order, nine Plaintiffs—eight represented by Kelly & Grossman, LLP (“Kelly Plaintiffs”),¹ and one represented by the Ferraro Law Firm (“Ferraro Plaintiff”)²—failed to serve executed Plaintiff Fact Sheets

¹ “Kelly Plaintiff” refers to Steubenville Electrical Welfare Fund (2:25-cv-00503); IBEW Local 163 (2:25-cv-00503); Black Diamond (2:25-cv-00515); City of Athens, Ohio (2:25-cv-00515); IBEW Local 613 and Contributing Employers Family Health Fund (2:25-cv-00519); IBEW Local 613 and Contributing Employers Retiree Health Fund (2:25-cv-00519); Diocese of Wheeling-Charleston (2:25-cv-00521); and Local 49 Health and Welfare Fund (2:25-cv-00525).

² “Ferraro Plaintiff” refers to C.H. Robinson Worldwide, Inc. (2:25-cv-00526).

(“PFS”) within the time required by CMO 14 or any agreed extension. Pursuant to CMO 14 ¶ 5(c)(i), Defendants respectfully request this Court to issue an Order to Show Cause why these nine Plaintiffs’ cases should not be dismissed in their entirety.

I. BACKGROUND

Pursuant to CMO 14, each of the nine Plaintiffs was required to serve an executed PFS no later than April 14, April 30, and May 7, 2025. This accounts for the fact that the Ferraro Plaintiff and the Kelly Plaintiffs requested and received an extension from Defendants. None of these nine Plaintiffs served PFS responses by their required deadline even with the extensions. Accordingly, Defendants served Notices of Failure to Serve pursuant to CMO 14 ¶ 5(b)(i) on April 15, May 2, and May 14, 2025. *See* Exs. B-J. Each Notice was served via email to Plaintiffs’ attorneys of record, David Grossman of Kelly & Grossman, and Natalia M. Salas of the Ferraro Law Firm with a courtesy copy to the Co-Lead Counsel’s designees, David Buchanan of Seeger Weiss; Mark Pifko of Baron Budd; Brandon Bogle of Levin Papantonio; and Benjamin Widlanski of Kozyak Tropin & Throckmorton. Plaintiffs still have not served their PFS responses or requested further extension. *See* CMO 14 ¶ 5(b)(ii). And while the Ferraro Plaintiff responded, promising to serve a fact sheet and production within the 14-day period to cure, it failed to do so. Ex. K.

II. ARGUMENT

Pursuant to CMO 14 ¶ 5(c), Defendants request the Court issue an Order to Show Cause requiring Plaintiffs to serve a completed PFS within 14 days. Plaintiffs' failure to provide PFS responses violates CMO 14, defeats the streamlined discovery process the Court ordered, and delays the "identif[ication of the] core issues" in the MDL. *See* ECF No. 291 at 12. Defendants respectfully ask the Court to enforce CMO 14 by requiring the Kelly Plaintiffs and Ferraro Plaintiff to each promptly serve an executed and substantially complete PFS within 14 days, or have their complaints dismissed. *See* CMO 14 ¶ 5(c)(i).

III. CONCLUSION

As provided by the Court's CMO 14, Defendants respectfully request that the Court enter an Order to Show Cause with a 14-day deadline as to these nine Plaintiffs that failed to serve a PFS pursuant to CMO 14.

Dated: May 29, 2025

/s/ Brian W. Carroll

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